

104TH CONGRESS  
2D SESSION

# S. 2121

To ensure medicare beneficiaries participating in managed care have access to emergency and urgent care.

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## IN THE SENATE OF THE UNITED STATES

SEPTEMBER 25, 1996

Mr. GRAHAM (for himself, Mr. GRASSLEY, Ms. MOSELEY-BRAUN, Mr. CHAFEE, Mr. JEFFORDS, Mr. BAUCUS, Mr. SIMON, Mr. HOLLINGS, and Mr. WELLSTONE) introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To ensure medicare beneficiaries participating in managed care have access to emergency and urgent care.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

### 3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Medicare Access to  
5 Emergency Medical Care Act of 1996”.

### 6 **SEC. 2. REQUIREMENTS FOR MEDICARE MANAGED CARE.**

7 (a) ACCESS TO EMERGENCY SERVICES.—Section  
8 1876(c) of the Social Security Act (42 U.S.C. 1395mm(c))  
9 is amended by adding at the end the following:

1       “(9)(A) A risk-sharing contract under this section  
2 shall require an eligible organization that provides any  
3 coverage with respect to emergency services to cover emer-  
4 gency services furnished to a member enrolled with the  
5 organization—

6               “(i) without regard to whether or not the pro-  
7 vider furnishing the emergency services has a con-  
8 tractual or other arrangement with the organization  
9 for the provision of such services to such members,  
10 and

11              “(ii) without regard to prior authorization.

12       “(B)(i) A risk-sharing contract under this section  
13 shall require an eligible organization that provides any  
14 coverage with respect to emergency services—

15              “(I) to determine and make prompt payment  
16 (within the meaning of subsection (g)(6)(A)) in a  
17 reasonable and appropriate amount for such services  
18 (including services required to be provided under  
19 section 1867), and

20              “(II) subject to clause (ii), to not impose cost-  
21 sharing for services furnished in a hospital emer-  
22 gency department that is calculated in a manner  
23 (such as the use of a different percentage) that im-  
24 poses greater cost sharing with respect to such serv-

1        ices compared to comparable services furnished in  
 2        other settings.

3        “(ii) An eligible organization may impose a reason-  
 4        able copayment (as determined in accordance with stand-  
 5        ards established by the Secretary) in lieu of coinsurance  
 6        to deter inappropriate use of services of hospital emer-  
 7        gency departments.

8        “(C) In this paragraph, the term ‘emergency services’  
 9        has the same meaning as in paragraph (10)(D).”.

10       (b) TIMELY AUTHORIZATION FOR PROMPTLY NEED-  
 11       ED CARE IDENTIFIED AS A RESULT OF REQUIRED  
 12       SCREENING EVALUATION.—Section 1876(c) of such Act  
 13       (42 U.S.C. 1395mm(c)), as amended by subsection (a),  
 14       is amended by adding at the end the following:

15       “(10)(A) The organization must provide access 24  
 16       hours a day, 7 days a week to individuals who are author-  
 17       ized to make any prior authorizations required by the or-  
 18       ganization for coverage of items and services (other than  
 19       emergency services) that a treating physician or other  
 20       emergency department personnel identify, pursuant to a  
 21       screening evaluation required under section 1867(a), as  
 22       being needed promptly by an individual enrolled with the  
 23       organization under this part.

24       “(B) The organization is deemed to have approved  
 25       a request for such promptly needed items and services if

1 the physician or other emergency department personnel in-  
2 volved—

3 “(i) has made a reasonable effort to contact an  
4 individual described in subparagraph (A) for author-  
5 ization to provide an appropriate referral for such  
6 items and services or to provide the items and serv-  
7 ices to the individual and access to the person has  
8 not been provided (as required in subparagraph  
9 (A)), or

10 “(ii) has requested such authorization from the  
11 person and the person has not denied the authoriza-  
12 tion within 30 minutes after the time the request is  
13 made.

14 “(C) Approval of a request for a prior authorization  
15 determination (including a deemed approval under sub-  
16 paragraph (B)) shall be treated as approval of a request  
17 for any items and services that are required to treat the  
18 medical condition identified pursuant to the required  
19 screening evaluation.

20 “(D) In this paragraph, the term ‘emergency services’  
21 means—

22 “(i) health care items and services furnished in  
23 the emergency department of a hospital (including a  
24 trauma center), and

1           “(ii) ancillary services routinely available to  
2       such department,  
3 to the extent they are required to evaluate and treat an  
4 emergency medical condition (as defined in subparagraph  
5 (E)) until the condition is stabilized (as defined in sub-  
6 paragraph (F)).

7       “(E) In subparagraph (D), the term ‘emergency med-  
8 ical condition’ means a medical condition, the onset of  
9 which is sudden, that manifests itself by symptoms of suf-  
10 ficient severity, including severe pain, that a prudent  
11 layperson, who possesses an average knowledge of health  
12 and medicine, could reasonably expect the absence of im-  
13 mediate medical attention to result in—

14           “(i) placing the person’s health in serious jeop-  
15 ardy,

16           “(ii) serious impairment to bodily functions, or

17           “(iii) serious dysfunction of any bodily organ or  
18 part.

19       “(F) In subparagraph (D), the term ‘stabilized’  
20 means, with respect to an emergency medical condition,  
21 that no material deterioration of the condition is likely,  
22 within reasonable medical probability, to result or occur  
23 before an individual can be transferred in compliance with  
24 the requirements of section 1867.”.

1           (c)           CONFORMING           AMENDMENT.—Section  
2 1876(c)(4)(B) of such Act (42 U.S.C. 1395mm(c)(4)(B))  
3 is amended by inserting “subject to paragraphs (9) and  
4 (10),” before “provide”.

5           (d) EFFECTIVE DATE.—The amendments made by  
6 subsections (a) and (b) shall be effective for contract years  
7 beginning on or after the date of the enactment of this  
8 Act.

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